

**GIB/DL/ Sudhir/06-11-2019/HC-38**

**High Court Category :** Others

**State :** Delhi

**Order No.:** GIB/DL/ Sudhir/06-11-2019/HC-38

**Name of Entry :**  
Sudhir Kumar Aggarwal

**Date :** 06-11-2019

**Breif Issue :**

**Issue involved :**

Whether presence of a lawyer could be allowed to assessee at time of questioning or examination by officers of GST?

**Fact of the Case:**

- The petition is filed by applicant under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondents not to cause any physical, mental or verbal harassment to the petitioner during the interrogation.
- In this writ petition applicant prayed presence of lawyer at time of recording of statement by GST Authorities.
- Learned standing counsel for the respondent submitted petitioner in the present case does not have clean antecedents.
- It was further submitted by respondent that petitioner was being called for the purpose of questioning. It was, therefore, prayed that order dated 20.09.2019 be modified wherein the prayer of petitioner seeking presence of lawyer during examination by the respondent was allowed as this will frustrate the very purpose of the inquiry.

**Decision of Advance Ruling Authority :**

**Decision:**

Hon'ble High Court decided in favour of Revenue by not allowing the advocate to be present at the time of questioning or examination by GST authority.

The Court has considered the decision of Hon'ble Supreme Court in ***Pool Pandi's*** judgement (GIB/DL/POOL PANDI/14-05-1992/SC-2) "*that presence of a lawyer cannot be allowed during examination/interrogation by a Customs Officer*".

[Click here](#) to read the original judgement of Hon'ble Supreme Court in ***Pool Pandi's***

This judgement has been distinguished from the ***Nandini Satpathy v. P. L. Dani*** (GIB/DL/NANDINI SATPATHY/07-04-1978/SC-1 )case where it was held that lawyer presence is a constitutional claim and shall not be denied “*without being exposed to the serious reproof that involuntary self-crimination secured in secrecy and by coercing the will the project.*”

[Click here](#) to read the original judgement of Hon’ble Supreme Court in ***Nandini Satpathy v. P. L. Dani***